

component parts of larger urbanized areas designated as consolidated metropolitan statistical areas (CMSAs). Where an MSA is divided among two or more field offices, references to an MSA mean the portion of the MSA within the State/Area Office jurisdiction.

Public housing agency (PHA). (1) Any State, county, municipality, or other governmental entity or public body which is authorized to administer a program under the 1937 Act (or an agency or instrumentality of such an entity).

(2) In addition, for purposes of the program of Section 8 tenant-based assistance under part 982 of this title, the term PHA also includes any of the following:

(i) A consortia of housing agencies, each of which meets the qualifications in paragraph (1) of this definition, that HUD determines has the capacity and capability to efficiently administer the program (in which case, HUD may enter into a consolidated ACC with any legal entity authorized to act as the legal representative of the consortia members);

(ii) Any other public or private non-profit entity that was administering a Section 8 tenant-based assistance program pursuant to a contract with the contract administrator of such program (HUD or a PHA) in effect on October 21, 1998; or

(iii) For any area outside the jurisdiction of a PHA that is administering a tenant-based program, or where HUD determines that such PHA is not administering the program effectively, a private non-profit entity or a governmental entity or public body that would otherwise lack jurisdiction to administer the program in such area.

[61 FR 10849, Mar. 15, 1996, as amended at 64 FR 26639, May 14, 1999]

Subparts B–C [Reserved]

Subpart D—Allocation of Budget Authority for Housing Assistance

§ 791.401 General.

This subpart D establishes the procedures for allocating budget authority under section 213(d) of the Act for the

programs identified in § 791.101. It describes the allocation of budget authority by the appropriate Assistant Secretary to the applicable Program Office Director in the HUD field office, and by the Program Office Director to allocation areas within their jurisdiction.

[61 FR 10849, Mar. 15, 1996, as amended at 64 FR 26639, May 14, 1999]

§ 791.402 Determination of low-income housing needs.

(a) Before budget authority is allocated, the Assistant Secretary for Policy Development and Research shall determine the relative need for low-income housing assistance in each HUD field office jurisdiction. This determination shall be based upon data from the most recent, available decennial census and, where appropriate, upon more recent data from the Bureau of the Census or other Federal agencies, or from the American Housing Survey.

(b) Except for paragraph (c) of this section, the factors used to determine the relative need for assistance shall be based upon the following criteria:

(1) *Population.* The renter population;

(2) *Poverty.* The number of renter households with annual incomes at or below the poverty level, as defined by the Bureau of the Census;

(3) *Housing overcrowding.* The number of renter-occupied housing units with an occupancy ratio of 1.01 or more persons per room;

(4) *Housing vacancies.* The number of renter housing units that would be required to maintain vacancies at levels typical of balanced market conditions;

(5) *Substandard housing.* The number of housing units built before 1940 and occupied by renter households with annual incomes at or below the poverty level, as defined by the Bureau of the Census; and

(6) *Other objectively measurable conditions.* Data indicating potential need for rental housing assistance, such as the number of renter households with incomes below specified levels and paying a gross rent of more than 30 percent of household income.

(c) For the section 202 elderly program, the data used shall reflect relevant characteristics of the elderly population. The data shall use the criteria specified in paragraph (b)(1) and

(6) of this section, as modified to apply specifically to the needs of the elderly population.

(d) Based on the criteria in paragraphs (b) and (c) of this section, the Assistant Secretary for Policy Development and Research shall establish housing needs factors for each county and independent city in the field office jurisdiction, and shall aggregate the factors for such jurisdiction. The field office total for each factor is then divided by the respective national total for that factor. The resulting housing needs ratios under paragraph (b) of this section are then weighted to provide housing needs percentages for each field office, using the following weights: population—20 percent; poverty—20 percent; housing overcrowding—10 percent; housing vacancies—10 percent; substandard housing—20 percent; other objectively measurable conditions—20 percent. For the section 202 elderly program, the two criteria described in paragraph (c) of this section are weighted equally.

(e) The Assistant Secretary for Policy Development and Research shall adjust the housing needs percentages derived in paragraph (d) of this section to reflect the relative cost of providing housing among the field office jurisdictions.

[61 FR 10849, Mar. 15, 1996, as amended at 64 FR 26639, May 14, 1999]

§ 791.403 Allocation of housing assistance.

(a) The total budget authority available for any fiscal year shall be determined by adding any available unreserved budget authority from prior fiscal years to any newly appropriated budget authority for each housing program.

(b) Budget authority available for the fiscal year, except for that retained pursuant to § 791.407, shall be allocated to the field offices as follows:

(1) Budget authority shall be allocated as needed for uses that the Secretary determines are incapable of geographic allocation by formula, including—

(i) Amendments of existing contracts, renewal of assistance contracts, assistance to families that would otherwise lose assistance due to the deci-

sion of the project owner to prepay the project mortgage or not to renew the assistance contract, assistance to prevent displacement or to provide replacement housing in connection with the demolition or disposition of public housing, assistance in support of the property disposition and loan management functions of the Secretary;

(ii) Assistance which is—

(A) The subject of a line item identification in the HUD appropriations law, or in the table customarily included in the Conference Report on the appropriation for the Fiscal Year in which the funds are to be allocated;

(B) Reported in the Operating Plan submitted by HUD to the Committees on Appropriations; or

(C) Included in an authorization statute where the nature of the assistance, such as a prescribed set-aside, is, in the determination of the Secretary, incapable of geographic allocation by formula,

(iii) Assistance determined by the Secretary to be necessary in carrying out the following programs authorized by the Cranston-Gonzalez National Affordable Housing Act: the Homeownership and Opportunity Through HOPE Act under title IV and HOPE for Elderly Independence under section 803.

(2) Budget authority remaining after carrying out allocation steps outlined in paragraph (b)(1) of this section shall be allocated in accordance with the housing needs percentages calculated under paragraphs (b), (c), (d), and (e) of § 791.402. HUD may allocate assistance under this paragraph in such a manner that each State shall receive not less than one-half of one percent of the amount of funds available for each program referred to in § 791.101(a) in each fiscal year. If the budget authority for a particular program is insufficient to fund feasible projects, or to promote meaningful competition, at the field office level, budget authority may be allocated among the ten geographic areas of the country. The funds so allocated will be assigned by Headquarters to the field office(s) with the highest ranked applications within the ten geographic areas.

(c) At least annually HUD will publish a notice in the FEDERAL REGISTER